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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,419	02/26/2004	Sung Yie Liao	4325SB	1463
7590	07/25/2005		EXAMINER	
Sung Yie Liao P.O. Box 63-99 Taichung, 406 TAIWAN			HANEY, RICHAE LEE	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

②

Office Action Summary	Application No. 10/790,419	Applicant(s) LIAO, SUNG YIE	
	Examiner Richale L. Haney	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

1. The disclosure is objected to because of the following informalities: subject heading are improperly underlined.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what the applicant means by an "attaching line" and does not disclose a clear definition of this phrase within the specification and therefore renders the claim indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 3 and 5, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt et al. (6,209,139). Schmidt discloses a cap including a crown with an outer peripheral surface (Figure 10 and Figure 10a, 32, 33) a first flap

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with an edge portion attached to the bottom outer surface of the cap and removably attached to the top portion of the cap allowing the flap to be exposed outwardly (Figure 10, 34 and Column 3, lines 55-59). A second flap is selectively engaged onto the outer surface of the cap, (Figure 13, 34) is foldable, and attached to the bottom surface of the cap. The second flap is partially superposed with the attaching line of the first flap (Figure 13, 38 and 34 and Column 3, lines 50-55). It is noted that the Webster-Merriam dictionary states the definition of superposed is "to place or lay over or above whether in or not in contact." A third flap is attached to the bottom outer peripheral surface of the cap and is foldable so as to be exposed outwardly (Figure 10 or Figure 10a, 36).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al., whom discloses all of the following invention except for the particular folding of the flaps described in claim 4. Schmidt et al. does not specifically disclose a second flap folded in an upright position against the base of the crown so that the outer surface of the second flap would be engaged onto the inner surface of the first flap, when in the detached position. However, it is inherent due to the structure of the cap that when the second flap is folded in an upright position and the first flap is in the detached position

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the outer surface of the second flap would be engaged with the inner surface of the first flap.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al., whom does not specifically disclose the three flaps being partially superposed along the attaching line. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schmidt et al. by duplicating the disclosed parts in order to have three flaps superposed at the attaching line. The applicant's admission states that the flaps foldable to the crown are for decorative purposes. There is no information provided in the disclosure that states the benefit of a three-flapped structure and therefore the claim is rejected.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richale L. Haney whose telephone number is 571-272-8689. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571 -272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richale L. Haney
Patent Examiner
Art Unit 3765
July 20, 2005

RLH


JOHN D. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700